



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

February 22, 2017

By ECF

Honorable John G. Koeltl
United States District Judge
United States Courthouse
500 Pearl Street
New York, NY 10007

Re: *Flores v. United States Department of Justice*, 17 Civ. 0036 (JGK)

Dear Judge Koeltl:

This Office represents defendant United States Department of Justice (the “Government”) in the above-referenced matter, which was filed by plaintiff Louis Flores (the “Plaintiff”) pursuant to the Freedom of Information Act, 5 U.S.C. § 552. I submit this letter on behalf of my colleague, Assistant United States Attorney (“AUSA”) Rebecca S. Tinio, to request a three-week extension—from February 27, 2017 to March 20, 2017—of the Government’s deadline to respond to the complaint.

AUSA Tinio has been handling this matter since its inception. Yesterday morning, however, she learned of a serious illness in her immediate family that will require her to be out of the office (and away from New York), and unable to work on this or other matters, for an undetermined period. The Government therefore respectfully requests this extension to allow AUSA Tinio time to return to the office or to make other arrangements necessary for the Government to respond to the complaint. This is the Government’s first request for an extension of its deadline to respond to the complaint. Plaintiff does not consent to the request for an extension, as indicated in the attached e-mail exchange. The Government understands that Plaintiff also intends to submit a letter opposing the extension request. We thank the Court for its consideration of this matter.

Respectfully submitted,

PREET BHARARA
United States Attorney for the
Southern District of New York

By: /s/ Andrew E. Krause

ANDREW E. KRAUSE
Assistant United States Attorney
Telephone: 212-637-2769
E-mail: andrew.krause@usdoj.gov

Attachment

cc: Louis Flores, Plaintiff
(via e-mail and U.S. Mail)

From: Louis Flores
To: [Krause, Andrew \(USANYS\) 1](#)
Cc: [Tinio, Rebecca \(USANYS\)](#)
Subject: Re: Flores v. United States Department of Justice, 17 Civ. 0036 (JGK) -- NO CONSENT !!!!!
Date: Tuesday, February 21, 2017 10:22:28 PM

I will not consent to any extension of time. I will be outside your office protesting one day soon, and I will be making a YouTube video about your request for an extension of time, and I will send out my video to all my followers in a newsletter. I like sending newsletters, bc I have no control over how far and wide my followers forward my newsletters.

It sounds like Ms. Tinio cannot handle this litigation, if she is waiting until the very last minute to get sign-off from the EOUSA to a simple Answer. Shouldn't she know that she would have needed to get sign-off from the EOUSA days and days before a deadline ? Maybe Ms. Tinio needs to be replaced from this case, if she can't follow orders given to her by the EOUSA. If the DOJ cannot handle/juggle all this FOIA litigation, maybe it shouldn't be the agency's pattern and practise to litigate all/most FOIA requests. Being unable to manage the litigation that you create by your pattern and practise of refusing to comply with FOIA is no excuse for seeking an extension of time. I will note this for the Hon. Judge Koeltl in my letter.

I provided a courtesy copy of the Complaint to my contacts in your press office on the day the Complaint was filed. I will attach that e-mail exchange and this e-mail exchange to my letter to the Hon. Judge Koeltl. I made it clear to the Press Office and/or to Ms. Tinio WEEKS AGO in a prior e-mail exchange that I would not consent to any extension. I have experience with how the DOJ litigates FOIA Requests, particularly those filed by pro se litigants. I was right to expect that you would request an extension of time, and it is a poor reflection on Ms. Tinio's part that she couldn't make this request herself, but no extension is required. The U.S. Attorney's Office had a copy of this Complaint from the day it was filed. What did you do with all that time ? Are you going to explain what you and Ms. Tinio did in all that time ? I want an accounting of your time in any extension request you make to the Court. If you don't provide an accounting of your time, I will ask the Hon. Judge Koeltl to ask you for an accounting of your time, which will get entered into the Court records and I will post onto Archive.org, bc this goes to the pattern and practise of misconduct by the agency in refusing to comply with deadlines set by FOIA and by the Courts in matters related to FOIA Requests.

I will unearth the long record of misconduct by the DOJ in my past FOIA litigation as other reasons why the U.S. District Court judge should deny your extension request, because this is all goes to pattern and practise.

Another reason I will oppose your request is because you and Ms. Tinio had no other work to do, but to prepare an Answer. Ms. Tinio turned down my request to settle this FOIA Lawsuit. I was willing to settle this FOIA Lawsuit, provided your office would propose reforms in writing acceptable to me and to the Hon. Judge Koeltl that would bring the agency into compliance with FOIA. Ms. Tinio turned down my offer to enter into settlement discussions. You had nothing else to work on, but to prepare a simple Answer for a 58 paragraph Complaint and to get sign-off from the EOUSA. Again, I must ask, what have you been doing with all this time ?????

I will also ask the Hon. Judge Koeltl that I want an index of all the records you will be producing and not producing, regardless of whether or not the Court grants your request. I want to know just how many records you have that a simple production cannot have been made long ago ? I requested expedited processing, and here you are, taking more actions to keep dragging this out. You owe explanations to the Court about what records exist and what expedited processing means to the DOJ.

I will reiterate for you what I tried to make clear to the press office and/or Ms. Tinio long ago : This FOIA Request is small potatoes. There were four enumerated requests in my FOIA Request. I am not asking for records of any investigation, I am not asking for records that are privileged. What is the controversy here ? This is small potatoes. Unless maybe they it is not ? Which makes me feel intrigued.....

Taking off my reporter hat, I respect the work done by your office. You all do such great work. I make time to report about the good work done by your office and the office in Brooklyn. I will tell you what I have chanted in my prior protests : You all are helping to lead the fight against corruption and restore faith in Government, but what example do you really set when you openly violate FOIA ? When I put my reporter hat back on, I can't do my reporting work, if I don't have information to go by to explain to my readers the thoughts, ideas, interpretations of what is the law, what is the policy, and what are the processes that play out in the subjects about corruption, about which I write most about. The U.S. Attorney now has jurisdiction to investigate and prosecute activists now trying to do the "people's work" that the U.S. Attorney says is required to help reform Government, and I as a reporter don't know what laws, policies, guidelines he has at his disposal to investigate and prosecute activists. I write very complicated articles, and by denying me the records requested in my FOIA Request(s), you are making my job harder to do. Your office is openly violating FOIA for no good reason, except maybe you have a reason to want to keep the public in the dark, which isn't going to fly.

I, as the requester of the records, and the public, to whom the U.S. Attorney answers, **are due by right all the records I requested.** If you can't handle this FOIA Litigation, then just hand over the records. Comply with FOIA if you can't handle/juggle all this FOIA litigation. Give me my records.

-- Louis

On February 21, 2017 at 12:47 PM "Krause, Andrew (USANYS) 1"
<Andrew.Krause@usdoj.gov> wrote:

Mr. Flores,

My name is Andrew Krause, and I am an Assistant U.S. Attorney in the Southern District of New York. I am a colleague of AUSA Rebecca Tinio, who has been assigned to represent the defendant in the above-referenced FOIA lawsuit that you filed against the U.S. Department of Justice. I understand that the Government's deadline to answer your complaint is next Monday, February 27, 2017.

Unfortunately, due to a family medical emergency that occurred this morning, Ms. Tinio will be out of the office for at least the remainder of this week, and perhaps longer. As a result, she will not be able to prepare the Government's answer to the complaint by next Monday. I intend to submit a letter to Judge Koeltl tomorrow requesting a three-week extension (until March 20, 2017) of the answer deadline. Judge Koeltl's individual rules of practice require me to state in this letter "whether the adversary consents, and, if not, the reasons given by the adversary for refusing to consent."

Please advise me as soon as possible whether you will consent to the requested extension in light of Ms. Tinio's family emergency. If not, please let me know your reasons for refusing to consent, so that I can include those in the letter. If I do not hear from you by 1:00 p.m. tomorrow, I will file the letter and indicate that I am not aware of your position on the request.

Sincerely,

Andrew E. Krause
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Southern District of New York
86 Chambers Street, 3rd Floor
New York, NY 10007
Telephone: (212) 637-2769
Facsimile: (212) 637-2786

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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|--------------------------------------|---|-----------------------|
| ----- | X | |
| LOUIS FLORES, | : | |
| | : | 17 Civ. 0036 (JGK) |
| Plaintiff, | : | |
| | : | CERTIFICATE OF |
| -against- | : | SERVICE |
| | : | |
| UNITED STATES DEPARTMENT OF JUSTICE, | : | |
| | : | |
| Defendant. | : | |
| ----- | X | |

I, Andrew E. Krause, an Assistant United States Attorney for the Southern District of New York, hereby certify that on February 22, 2017, I caused a copy of the Government's letter motion seeking a three-week extension of its deadline to answer the complaint, dated February 22, 2017 (Dkt. No. 6), to be sent to the following address via U.S. Mail:

Louis Flores
34-21 77th Street
Jackson Heights, NY 11372

I also caused a copy of this document to be sent to the following e-mail address, which has previously been used by Plaintiff for communications with counsel for the Government:

louis.flores@progressqueens.com

Dated: New York, New York
February 22, 2017

PREET BHARARA
United States Attorney for the
Southern District of New York
*Attorney for Defendant United States
Department of Justice*

By: /s/ Andrew E. Krause
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